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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,667	09/07/2006	John Walsmley	85-408-202	5110
ADE & COMPANY INC PO BOX 28006 1795 HENDERSON HWY WINNIPEG MANITOBA, R2G 4E9 CANADA				
EXAMINER YOUNKINS, KAREN L				
ART UNIT		PAPER NUMBER		
3751				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,667

Applicant(s)

WALSMLEY, JOHN

Examiner

KAREN YOUNKINS

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate both the sidewall in figures 1-5 and the surface of the collection platform 10 in figure 5. Reference character "2" has been used to designate both the device and the platform in figure 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Reference character 42 is used to designate both the sidewall and vertical points on page 8.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 7-8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,060,317 to Bertelsen.

5. With reference to claims 1 and 2, Bertelsen discloses a toilet having a rim (13) and a bowl (14), and a stool sample collection device (15/17). The stool sample collection device (15/17) comprises a sample collection platform (7) that is arranged to receive a stool sample from a user when installed in a toilet, see figure 1, and an end wall (6) extending from the sample collection platform at an angle to the platform. The end wall includes attachment means (5/15/3/4) for attaching the device to the bowl of the toilet. The edges 19 of the sample collection platform (7) are angled downward (see column 3 lines 26-29) giving the platform a 'substantially' concave shape.

6. With reference to claims 7-8, Bertelsen discloses a toilet having a rim (13) and a bowl (14), and a urine or stool sample collection device (15/17). The urine or stool sample collection device (15/17) comprises a receptacle (17) having a cup (10)

arranged to receive urine when installed into a toilet bowl, see figure 1. The urine or stool sample collection device also includes a sample collection platform (7) arranged to receive a stool sample from a user when installed into a toilet bowl, see figure 1, and an end wall 6 which extends at a right angle from the sample collection platform. The end wall includes attachment means (5/15/3/4) for attaching the device to the bowl of a toilet. The edges 19 of the sample collection platform (7) are angled downward (see column 3 lines 26-29) giving the platform a 'substantially' concave shape.

7. In reference to claim 11, as previously discussed in pp-6 above, further the cup includes a spout (1) extending upwardly from the cup at an acute angle, see figures 2 and 3.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bertelsen.

10. As discussed in pp-5 above, further Bertelsen fails to disclose a plurality of apertures on the platform of the sample collection device, instead Bertelsen discloses edges 19 angled downward to prevent fluid accumulation on the surface of the platform 7 (see column 3 lines 26-29).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the sample collection platform of Bertelsen by

using a plurality of apertures on the surface of the platform as opposed to the edge structure as a drain to prevent fluid accumulation on the surface of the platform.

11. Claims 3-4, 6, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bertelsen in view of U.S. Patent No. 4,866,793 to Luedtke et al (Luedtke).

12. With reference to claims 3-4 and 9-10, as discussed in pp-5 and pp-6 above, further Bertelsen fails to show the attachment means comprising suction cups.

Luedtke teaches a device for hanging in a toilet bowl where the attachment means comprise suction cup 44 a and second suction cup provided in a symmetrical location on the invention (see column 3 lines 24-28) results in stabilizing the device by maintaining an abutted position on the toilet bowl sidewall, see column 1 lines 54-60. The two suction cups are spaced laterally apart, see column 3 lines 24-28, and located on a portion (20) of Luedtke's attachment means.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the device of Bertelsen with suction cups on the end wall as taught by Leudtke in order to stabilize the device.

13. In reference to claim 6, the suction cups of Luedtke must be attached to the device through a hole in the attachment means 20. This hole can be considered a 'slot'. The use of a ring through this slot to stabilize the device against the wall of a toilet would be an obvious alternative means of attachment to someone having ordinary skill in the art.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,640,355 to Samide discloses a stool sample platform that is attached to an interior surface of the bowl as disclosed in the present application. U.S. Patent No. 6,151,972 to Venter et al. discloses a urine sample platform with the concave shape disclosed in the present application results in a greater support structure, see column 2 lines 7-14 and figure 3.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREN YOUNKINS whose telephone number is (571)270-7417. The examiner can normally be reached on Monday through Friday 7:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. Y./
Examiner, Art Unit 3751

/Gregory L. Huson/

Supervisory Patent Examiner, Art Unit 3751